

COMMISSIONERS APPROVAL

CHILCOTT *g*

LUND *sl*

THOMPSON *at*

TAYLOR (Clerk & Recorder)

Date.....February 6, 2006

Members Present.....Commissioner Greg Chilcott,
Commissioner Betty Lund and Commissioner Alan Thompson

Minutes: Sally Fortino

The Board of County Commissioners met regarding the MAKES Holding Company's subdivision exemption denial. Present were Karen Hughes, Planning Department; Nedra Taylor and Linda Beisel, Clerk and Recorder; James McCubbin, Deputy County Attorney; Jeff Hayes, attorney for MAKES Holding Company; Steve Powell, surveyor; MAKES Holding Company participants

Nedra and Karen said the request was denied because it would create a buildable parcel of land that was not there before.

Jeff said the people who own and operate a log home manufacturing company own the holding company. The US 93 Highway Project necessitated taking 60-70 feet of land for the highway expansion. The State negotiated for a trade of additional parcels to the north in exchange for land they would be taking.

The State made a proposal to abandon the existing Meridian entrance to US 93 and make a new entrance. In doing their surveys, the State decided that proposal wouldn't work for them. The new road would be to the south, cutting through an area set aside for log storage on the property. The State has made an easement, which separates 2.5 acres of land on the north end of the property. That is separated from the remainder of the log home facility. The area has been partially staked and defined.

Steve said because of the Meridian cutoff, the land is separated from the remainder of the property. It was decided to do a boundary line adjustment to make them more valuable commercially.

Jeff said he understood the denial is because they felt it was an attempt to make a new buildable parcel. The owners must deal with the fact that the highway has created a new lot; they propose a boundary line adjustment to equalize lots.

Steve said the lot to the north is no longer useful to the log home facility. If it is used for log storage, heavy equipment must move back and forth across the road, creating a dangerous situation. The County needs to elevate substance over form today. Make the boundary line relocation to maximize commercial value of the properties. It was always the intent that there would be three lots to the north to be sold, with the money to be used to operate the log home facility. This was openly discussed with the State when they wanted land.

James said he understands the proposal, but a boundary lot proposal is not suitable to the situation. They were trying to offset the takings by the State. The State has no authority to dictate what is acceptable to the County.

Commissioner Chilcott said the objective is to make the boundary lines consistent with the road. If you change the boundary lines of the existing lots, it makes them eligible for a subdivision. Making a new lot is not effective in moving logs across the road.

Jeff said the lot has been severed from the property. It creates a dangerous situation.

Steve said it is a textbook example of the public needing land, which effectively makes two lots. Show this is a retracement survey of land on either side. They required two northern lots as a trade for what they were losing. The State did not follow through with what they said they would do. It should be possible to present a retracement survey and see if there is a way to create a balance. He said he understood the objective to be three equal lots.

Jeff said he holds the same understanding as Steve. He said the State created the easement, and we need to deal with the new lot created by the State's decision.

James said granting an easement created Tract C, but Tract C does not exist because it is an easement.

Karen said changing boundary lines creates a new lot.

Steve said we were still working under the old perspective. He suggested we acknowledge that we have three tracts and let this go through as three tracts. Change the application to reflect that we have three lots. They are proposing three lots, and a deeded easement has been granted.

James said if it is a deeded strip of land it is different issue.

Steve said the public taking has affected the property's usefulness; functionally, the property has changed for the owner. The owner should be able to offer lots for sale; the State decided that public need mandated changing the property. Even an easement for a ditch retraces property.

Commissioner Lund asked who owns the property under the road.

Jeff said he doesn't know.

Commissioner Lund said a deed to the road would divide the land.

Karen said an exemption would not be required under those conditions.

Jeff said if the County doesn't recognize it as a separate parcel, the owners have no use for it. They will use it for a storage facility. If there were to be an accident, the County and State would share responsibility, since they are both aware of the situation.

James said it has not been adopted as a County road. The State does not have the authority to a County road.

Jeff said the State said they would have access to cross the road with their equipment.

James said this is not a County road; there are no access permits.

Jeff said no one has the authority to deny access to an individual's property.

Commissioner Lund said if the State owns it, if this is severed by deed by MDOT, there is no problem.

Commissioner Thompson said the State of Montana intends to pave that road. It seems that we have three lots that could become four lots. That doesn't appear to be boundary-line relocation.

Steve said the objective would be to equalize the boundaries of the three lots north of the road, not to create another lot.

Karen said she would need to see some type of legal validation to reconsider the relocation of a boundary line to equalize boundary lines between lots.

Commissioner Chilcott agreed it is necessary to see if the lots have been legally bisected.

James asked for evidence of what agreement was signed with the State.

Jeff said he would produce whatever document was signed with the State.

James said proper documentation would make boundary line relocation simple.

In other business Commissioner Thompson attended an evening meeting with the Right to Farm and Ranch Committee.

Commissioner Lund attended an evening meeting with the City of Hamilton for Area # 3 Neighborhood Plan.